



Germany

Country Reports on Human Rights Practices - [2004](#)

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Germany is a constitutional parliamentary democracy; citizens periodically choose their representatives in free and fair multiparty elections. A coalition government of the Social Democratic Party (SPD) and Alliance 90/The Greens returned to office in 2002 elections. The head of the Federal Government, the Chancellor, is elected by the Bundestag, the directly elected chamber of the federal legislature. The second chamber, the Bundesrat, represents the 16 states. The powers of the Chancellor and of the Parliament are set forth in the Basic Law (Constitution). The 16 states enjoy significant autonomy, particularly regarding law enforcement and the courts, education, the environment, and social assistance. The judiciary is independent.

Civilian authorities maintained effective control of the security forces. State governments have primary responsibility for law enforcement, and the police are organized at the state level. Some members of the security forces are alleged to have committed isolated human rights abuses.

A well—developed industrial economy provides citizens with a high standard of living. The population was approximately 82 million.

The Government generally respected the human rights of the citizens; however, there continued to be instances of ill treatment of prisoners and detainees by police. Under a new law, the courts may order that a person be detained indefinitely if convicted of particularly serious crimes and has completed his sentence but is judged, after expert testimony, to be a danger to the public. There were some limits on freedom of assembly and association. There was some government and societal discrimination against minority religious groups. Instances of societal violence and harassment directed at minority groups and foreign residents continued, and the Government at times did not provide adequate protection. Women continued to face some job discrimination in the private sector, as did minorities and foreigners. Trafficking in persons, particularly women and girls, was a problem, which the Government actively combated.

RESPECT FOR HUMAN RIGHTS

Section 1

Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents; however, there was one instance in which police may have been culpable in the death of an individual in their custody.

In August, a 35 year old man died after officers of the Special Unit Commandos (SEK) arrested him in his home in Neukoelln, Berlin. The officers are alleged to have held the man down with an iron shield and handcuffed him. Shortly afterwards, the man complained about feeling ill; an emergency physician was called, but the suspect died. The Berlin public prosecutor was still investigating this matter at year's end.

In July 2003, a court in Cologne found six police officers guilty of the 2002 beating death of a man who had been arrested; sentences ranged from 12 to 16 months in jail, and the officers appealed the decision. In July, the Cologne Court of Justice rejected the appeal but justified the comparatively lenient sentences by citing evidence by a medical expert linking the death (2 weeks after the beating) to a pre existing medical condition. Nevertheless, since the sentences were 12 months or more, the police officers were dismissed from the police and lost their status as civil servants.

On October 18, a Frankfurt state court convicted three officers of the border police (BGS) charged with the 1999 death of a Sudanese asylum seeker during a deportation flight. The court found the officers guilty of inflicting "bodily harm with fatal

consequences." The men were sentenced to 9 months of probation. Two of the three retained their jobs and pensions, while the third lost his job under the terms of his introductory 90 day trial period, as he had joined recently. The court ruled the men had not received sufficient instruction from the BGS on how to respond in crisis situations.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

The Basic Law prohibits such practices; however nongovernmental organizations (NGOs) and other observers asserted that there continued to be instances in which police ill treated and used excessive force against individuals in their custody. The Government investigated a number of abuses and prosecuted police who mistreated persons in custody (see Section 1.d.).

In February, Stuttgart police allegedly beat a foreigner who had been arrested for refusal to provide identification or accompany officers to the station in connection with an identification check. Stuttgart prosecutors conducted a full investigation and concluded that there was no legal basis to pursue criminal charges against the officers involved, determining that the individual was extremely intoxicated and police action had occurred in the course of resisting arrest.

In February 2003, an employee at the Cologne police headquarters struck a detainee whom he alleged was verbally abusive. Authorities reassigned the employee to another position and began an investigation, which remained pending at year's end.

In April 2003, authorities charged three police officers in Frankfurt am Main with assault for beating Andre Heech after arresting him in February for failing to return from a prison work release program. Heech, an amputee, alleged that one of the officers struck the remaining part of his leg with a metal pipe, and that he was not provided medical assistance. The case remained pending at year's end.

In October 2002, Frankfurt prosecutors charged Deputy Police Commissioner Wolfgang Daschner with threatening to use violence against a kidnapping suspect in police custody. Daschner threatened serious bodily harm to the kidnapper, Marcus Gaefgen, if he did not disclose the whereabouts of the kidnapped individual. Daschner faced a sentence of up to 1 year in prison. On December 20, he was sentenced to a 1 year probation, during which if further abuses were reported he would be fined approximately \$13,500 (10,000 euro).

In November, police in Baden Wuerttemberg initiated an investigation of three police officers suspected of having mistreated a suspect during a drug raid at a subway station in Stuttgart. According to a Stuttgart city council member, two civilian policemen forced a suspect to lie down on the floor of the subway station and a third policeman kicked him. The city council member filed a legal complaint against the police officers, and the Stuttgart prosecutor's office was investigating the case at year's end.

Late in the year, military authorities began a criminal investigation of a Bundeswehr army captain and 17 noncommissioned officers stationed in Coesfeld, near Muenster, charged with abuse and degrading treatment of draftees during training. Drill instructors allegedly stripped, kicked, and used electric shock on the inductees. All 18 Bundeswehr members were suspended from duty while the investigation by the Muenster state prosecutor continued. If convicted the defendants faced sentences of up to 5 years in prison.

There were a number of violent attacks by rightwing groups on minority groups and foreigners (see Section 5).

Prison conditions met international standards.

Men were held separately from women, juveniles were held separately from adults, and pretrial detainees were held separately from convicted criminals.

The Government permits visits by independent human rights observers, and such visits took place.

d. Arbitrary Arrest or Detention

The Basic Law prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions.

The police forces are organized at the state level. The jurisdiction of the Federal Criminal Office is limited to counterterrorism and international organized crime, particularly narcotics trafficking, weapons smuggling, and currency counterfeiting. The Federal Criminal Police, as the country's central police agency, coordinates crime suppression at the national and international level, and investigates certain limited cases of international crime as mandated by the law or the public prosecutor. Police forces

in general were trained to a high professional level, disciplined, and mindful of citizens' rights. The Government investigated abuses and prosecuted police who mistreated persons in custody (see Sections 1.a. and 1.c.). Allegations of corruption were very rare.

An individual may be arrested only on the basis of a warrant issued by a competent judicial authority, unless the suspect is caught in the act of committing a crime or the police have strong reason to believe that the individual intends to commit a crime. If there is evidence that a suspect might flee the country, police may detain that person for up to 24 hours pending a formal charge. An individual detained by police must be brought before a judge and charged within 24 hours of the arrest. The court then must issue an arrest warrant stating the grounds for detention or order the individual's release.

Police at times detained known or suspected radicals for brief periods when they believed such individuals intended to participate in illegal or unauthorized demonstrations (see Section 2.b.). The rules governing this type of detention are different in each state, with authorized periods of detention ranging from 1 to 14 days, provided judicial concurrence is given within 24 hours of initial detention. There were no reports of such detention during the year.

Detainees have access to lawyers. Only judges may decide the validity of any deprivation of liberty. Bail exists but was employed infrequently; detainees usually were released unless there was clear danger of flight outside the country. In these cases, a person may be detained for the duration of the investigation and subsequent trial. Such decisions are subject to regular judicial review, and time spent in investigative custody applies toward the sentence. In cases of acquittal, the Government must compensate the individual.

A law allowing a so called "retroactive preventive detention" for criminals went into force in July. Under the new law, criminals cannot be punished twice for the same crime; however, in cases involving certain serious crimes (rape, homicide, manslaughter, and others), courts may order that detention be continued after the sentence has been served ("preventive detention"). This requires a court finding that the convicted person could pose a danger to the public, and requires at least one expert opinion. The detention could last for an indefinite period of time.

e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary, and the Government generally respected this provision in practice. Ordinary courts have jurisdiction in criminal and civil matters. There are three levels of such courts (local courts, regional courts, and the Federal Court of Justice), with appeals possible from lower to higher levels. In addition to the ordinary courts, there are four types of specialized courts: Administrative, labor, social, and fiscal. These courts also have different levels, and appeals may be made to the next higher level.

In addition, the Federal Constitutional Court, the country's supreme court, reviews laws to ensure their compatibility with the Basic Law and adjudicates disputes between different branches of government on questions of competency. It may also hear and decide cases concerning the infringement of a person's basic constitutional rights by a public authority.

The judiciary provided citizens with a fair and efficient judicial process, although court proceedings at times were delayed because of increasing caseloads. For simple or less serious cases, procedures exist for an accelerated hearing and summary punishment at the local court level. The maximum sentence for such cases is limited to 1 year. Generally, a 1 year sentence is suspended and the individual is placed on probation.

Trials are public and juries are usually used; however, some cases are heard by two lay judges and two to three professional judges. In such cases, the lay judges have the same rights as the professional judges. Defendants are required to be present and have the right to consult with an attorney in a timely manner. An attorney is provided at public expense if defendants demonstrate financial need. Defendants may confront or question witnesses against them and present witnesses and evidence on their behalf. In addition, defendants and their attorneys have access to government held evidence relevant to their cases. They also enjoy a presumption of innocence and have a right of appeal.

f. Arbitrary Interference with Privacy, Family, Home, or

Correspondence

The Basic Law and statutory laws prohibit such actions, and government authorities generally respected these prohibitions in practice; however, the privacy of members of organizations under observation by the federal and state Offices for the Protection of the Constitution (OPCs) may have been infringed (see Sections 2.b. and 2.c.).

The monitoring of private conversations requires the concurrence of the courts and is permitted only where there is a suspicion of a serious offense that could carry a prison sentence of more than 5 years. In March, the Federal Constitutional Court ordered that the law on monitoring conversations in private homes be amended so that the state security division of a regional court could no longer order monitoring when the individuals under surveillance were speaking to close relatives, doctors, priests or

defense lawyers. The ruling will require an amendment to the law, which had not taken place by year's end.

Section 2

Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Basic Law provides for freedom of speech and of the press, and the Government generally respected this right in practice; however, there were some limits on freedom of speech and press. Academic freedom was not restricted.

Distribution of the propaganda of proscribed organizations is illegal, as are statements inciting racial hatred, endorsing Nazism, and denying the Holocaust. The authorities sought to block what they considered dangerous material on the Internet. In March, police nationwide raided over 300 apartments to search for and seize rightwing extremist CDs and other banned music products. For example, there were a growing number of neo Nazi musical bands in Lower Saxony that called for violence or employed xenophobic or racist lyrics. As in other states, rightwing extremists planned the distribution of such CDs in Lower Saxon schools. The government of Lower Saxony deterred rightwing extremists from distributing these CDs by officially declaring it a criminal offense. In 2003, members of the Berlin neo Nazi band Landser were convicted of forming a criminal organization and sentenced to terms ranging from 3 years and 4 months in prison to 21 months' probation.

In July, the Constitutional Court ruled that, in general, neo Nazi groups enjoy a constitutionally guaranteed right of freedom of speech. The highest court overturned a state court ban on a rally by rightwing extremists protesting construction of a synagogue. The judges specified, nonetheless, that anti Semitic or racist statements remained illegal.

Apart from these limitations, the independent media were active and expressed a wide variety of views without government restriction.

The law bans access to prohibited material (for example, child pornography and Nazi propaganda) on the Internet, and the Government explored ways to expand international cooperation against Internet crime. For example, between 2002 and 2004 the Duesseldorf District Administration issued 90 ordinances against Internet providers in North Rhine—Westphalia, forcing them to block access to certain websites with rightwing extremist content. Appeals of these ordinances were making their way through the courts at year's end.

A 2003 federal report estimated that there were more than 950 Internet sites with what the authors considered to be hate inciting propaganda. While the number of such Internet sites decreased slightly due to government prosecution, the extremist groups used other methods such as e mail and chat rooms to deliver their message. The Federal Court of Justice has held that the country's laws against Nazi incitement may apply to individuals who post Nazi material on Internet sites available to users in the country even if the site resides on a foreign server.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly, and the Government generally respected this right in practice; however, outlawed organizations were not permitted to hold public assemblies. Permits must be obtained for open air public rallies and marches, and state and local officials have the authority to deny such permits when public safety concerns arise or when outlawed organizations attempt to hold public assemblies.

In March 2004, the Muenster Higher Regional Court confirmed a ban by local authorities on two planned demonstrations by the German National Democratic Party (NPD) against the construction of a synagogue in Bochum, citing the party's anti Semitic tendencies and the racially inflammatory motto for the demonstration as reasons for the ban. The NPD lodged a constitutional complaint against this decision with the Federal Constitutional Court. In June, when local law enforcement authorities banned another planned NPD demonstration against the construction of the synagogue, the party went directly to the Constitutional Court, which unanimously granted a temporary injunction to have the ban lifted. The demonstration took place on June 28. The case remained before the Federal Constitutional Court at year's end.

In August, in Wunsiedel, more than 2,000 neo Nazis participated in an annual march to honor Rudolf Hess. City officials had tried to ban the march, but the Bavarian Administrative Court had ruled against a ban. Several hundred individuals gathered also to oppose the march. Authorities arrested 105 individuals for carrying guns and illegal symbols such as swastikas.

On September 20, the Berlin Senate banned the holding of the "First Arab and Islamic Congress in Europe" scheduled to take place on October 13 in Berlin. The conference organizer, in the media and on his website, used anti Semitic slogans and was quoted saying it was a "sacred duty" to resist "US British Zionist" "terror" and "hegemony" and calling for "liberation of all occupied lands" and resistance "against the aggression and occupation in Palestine and Iraq." Mainstream Muslim organizations and German officials had publicly expressed their concerns about the planned event, saying it would violate German laws against violence incitement. On September 18, conference organizer Fadi Madi was refused entry into Germany on those grounds and was sent back to his residence in Lebanon.

The law provides for freedom of association, and the Government generally respected this right in practice; however, the Basic Law and the Association Law permit the banning of organizations whose activities are found to be illegal or opposed to the constitutional democratic order as established by the Basic Law. The Federal Constitutional Court is the only body that can outlaw political parties on these grounds. Federal or state governments may ban other organizations on these grounds, but legal recourse against such decisions is available. Such banned organizations included a number of groups that authorities generally classified as rightwing or leftwing, foreign extremist, or criminal in nature. Several hundred organizations were under observation by the federal and state OPCs (see Section 1.f.). The OPCs were charged with examining possible threats to the constitutional democratic system; they had no law enforcement powers. Observation generally consisted of collecting information from written materials and firsthand accounts in order to assess the possible threat. While OPC monitoring by law may not interfere with the continued activities of any organization, the OPCs publish a list of organizations being monitored, which could affect those organizations' activities (see Section 2.c.). At times, more intrusive methods, such as the use of undercover agents, could be employed, subject to legal checks.

In October 2003, more than 300 police officers raided homes and meeting places of suspected neo Nazi groups in Schleswig Holstein and Hamburg. Police found weapons and arrested several individuals suspected of "forming a politically motivated criminal organization." The suspects were associated with the international neo Nazi group Combat 18. Seven individuals were arrested. In April, the Kiel District Court sentenced one of those arrested, a known rightwing extremist, to 3 years and 2 months in prison on 13 counts of illegal weapons trading. Of the remaining six suspects, two received probation in firearms related proceedings, one remained in prison awaiting trial on charges of illegal weapons trading, and three were released from pretrial detention and were awaiting trial.

An Aachen based Islamist group, the Al Aqsa Association, which was banned by the federal Interior Minister in 2002 due to its financial support of the terrorist organization Hamas, lodged an appeal against the ban at the Federal Administrative Court in August 2002. In July, the court decided to suspend the ban until the appeal was adjudicated. On December 3, in a final decision, the Federal Administrative Court in Leipzig confirmed the ban.

Nine members of the Kameradschaft Sued, a neo Nazi gang from the southern part of the country, were charged in an alleged 2003 plot to bomb the site of a planned Jewish community center in downtown Munich. The first of two trials, involving three teenage girls and two men, began in October. The public was largely excluded in order to protect the defendant minors. The trial of ringleader Martin Wiese and three members of his inner leadership circle began in November.

c. Freedom of Religion

The Basic Law provides for freedom of religion, and the Government generally respected this right in practice; however, some religious minorities continued to experience instances of discrimination.

Church and State are separate, although the State

bestows certain advantages upon those religious communities that have the status of "corporation under public law." This status entitles them, among other things, to levy taxes on their members, which the Government collects for them. The decision to grant public law corporation status is made at the state level, but the requirements generally include a minimal number of members and financial resources, evidence of continuity of existence, and observance of, and consistency with, the Basic Law.

Religious organizations are not required to register, although many were registered and were treated as nonprofit associations and therefore enjoyed tax exempt status.

The Government does not recognize for public administration purposes several belief systems, such as Scientology, as religions; however, it does not prevent them from engaging in public and private religious activities. The Church of Scientology, in particular, is viewed, instead, as an economic enterprise. Moreover, federal and state authorities have classified Scientology as a potential threat to democratic order, measures which have led to employment and commercial discrimination against Scientologists in both the public and private sectors. Within the federal system, the states showed large differences with respect to their treatment of Scientology. Most states did not monitor Scientology, but Bavaria, which had unsuccessfully sought support among other states for a federal ban, continued to do so. The state of Baden Wuertemberg also continued to monitor Scientology, which it labeled a dangerous sect. In November, the Cologne Administrative Court ruled that the observation of Scientology by the Federal OPC, including the use of undercover methods, was legal. The court found that there were "factual indications" that Scientology sought to undermine the "free and democratic basic order" of the FRG. The court rejected a petition by Scientology to end its observation by the OPC, which has been ongoing since 1997. Scientologists announced plans to appeal.

Scientologists encountered other forms of hostility and suspicion from official sources. According to Scientologists, when the Ministry of Trade and Commerce of Baden Wuertemberg learned in October that the winner of the "Baden Wuertemberg Support Prize for Young Companies" had been awarded to a Scientologist, the Ministry withdrew the prize of approximately \$20,250 (15,000 Euro). In another instance, a Scientologist claimed that his license to be an expert witness for cases involving real estate claims, granted by the Berlin Chamber of Industry and Commerce, would not be renewed because of his affiliation with the Church of Scientology. The Chamber claimed not only that Scientologists should not be active on the real estate market but also that many judges would not accept testimony from a witness affiliated with Scientology.

Employment offices throughout the country continued to implement a 1996 administrative order of the Ministry of Economics and Labor directing them to enter an "S" notation next to the names of firms suspected of employing Scientologists, a notation that was subsequently made optional. Employment counselors are supposed to warn their clients that they might encounter Scientologists in these workplaces. Scientologists claimed that the "S" notations violate their right to privacy and interfere with their livelihood. Private sector firms have frequently screened for Scientology affiliations, citing OPC observation of Scientology as a justification for discrimination. Unlike in previous years, there were no reports that the Federal Property Office barred the sale of real estate to Scientologists.

Outside the government sector, the Lutheran Church employed "sect commissioners" to warn the public about supposed dangers posed by Scientology, as well as by the Unification Church, Bhagwan Osho, and Transcendental Meditation. The Lutheran Church also characterizes the Church of Jesus Christ of Latter day Saints (Mormons), the Jehovah's Witnesses, the Church of Christ, Christian Scientists, the New Apostolic Church, and the Johannish Church as "sects," but in less negative terms than it does Scientology.

The Unification Church sought legal remedies against the Government's entry ban on the founder of the Unification Church, Reverend Sun Myung Moon, and his wife, Hak Ja Har Moon. Federal courts ruled that the ban did not infringe upon church members' freedom to practice their religion. An appeal against the ban was pending at year's end. In December, the Berlin Administrative Court offered the Jehovah's Witnesses conditional Public Corporate status. The conditions, if accepted, are as follows: Jehovah's Witnesses would not collect the Church tax, they would not take part in religious lessons in schools, and they would not be appointed to church civil servant status. At year's end, the Witnesses had not responded to this proposal.

In April, following legal maneuvering and debate in 2002 and 2003, Baden Wuerttemberg became the first state to enact a law banning the wearing of headscarves by teachers in public schools. Saarland, Hessen, and Bavaria soon followed. In June, the Federal Administrative Court in Leipzig upheld the law and the state's decision to deny a teaching position to plaintiff Fereshta Ludin. In March, Baden Wuerttemberg authorities suspended teacher Gabriele Graber for refusing to remove her headscarf; the suspension remained pending a decision on Graber's case by the Federal Administrative Court in Leipzig. Other cases were also pending in the court system at year's end. An amended school law that entered into force in Lower Saxony in May also prohibited Muslim teachers from wearing headscarves while on duty in public schools. On October 8, the Hessen state parliament passed a law barring headscarf use by all public officials. In contrast, Hamburg permitted teachers to wear headscarves.

In October, a court in Leipzig ruled that Christian nuns teaching in public schools, a common practice, must also conform to a Baden Wuerttemberg law that prohibited the wearing of religious paraphernalia in schools. When Bavaria banned headscarves and other religious symbols deemed contrary to constitutional order in November, it did not ban the wearing of crucifixes or nuns' habits, claiming that they were professional uniforms.

While traditional anti-Semitism based on religious doctrines and traditional anti-Jewish prejudices continued to exist, Jewish leaders, academics, and others contended that a newer, nontraditional, form of anti-Semitism was emerging. This form tended to promote anti-Semitism as part of hostility to globalization, capitalism, Israel, and foreigners.

According to the 2003 report by Office for the Protection of the Constitution, the total number of registered Anti-Semitic crimes went down to 1,199 (from 1,515 in 2002). However, among these, the number of violent crimes increased from 28 to 35, and the number of desecrations of Jewish cemeteries, synagogues, and memorials increased from 78 to 115. On July 31, a rightwing extremist attempted to put an NPD leaflet in the hand of a young man wearing a Star of David sticker who was walking on a street in Berlin. When the young man dropped the leaflet on the sidewalk, the extremist attempted to strangle him and throw him on the ground, causing minor injuries. The authorities apprehended and charged the offender.

In August, according to the Zionist Organization of Frankfurt, four men in downtown Frankfurt harassed an English speaking Orthodox Jew, shouting, "they forgot to send your parents to the gas chamber" and jostled the individual until he fell to the ground. The men fled the scene immediately.

The desecration of Jewish cemeteries continued to be the most widespread acts of anti-Semitic violence. In January, vandals knocked over a number of headstones in a Jewish cemetery in Nickenich. They smeared four other headstones with black paint and partially dug up one of the graves in the cemetery. Police officials offered a reward of approximately \$3,375 (2,500 Euro) for information on the incident. In April, vandals scrawled swastikas and Nazi epithets on five headstones at a Jewish cemetery in Bausendorf. In June, vandals knocked over two headstones and scratched swastikas into seven others at a Jewish cemetery in Alsbach Haehnlein; police were investigating the incident.

Also in June, 45 gravestones in an ancient Jewish cemetery in Duesseldorf were covered with swastikas, SS—signs and anti-Jewish slogans. Another Jewish cemetery in Bochum was vandalized in August. Police investigators were unable to identify the perpetrators. In October, police announced that the Jewish cemetery in Julich had been desecrated; swastikas and other anti-Semitic symbols had been daubed on the gravestones.

On September 23, 350 persons demonstrated in the district of Neunkirchen (Saarland) against the desecration of the Hermanstrasse Jewish cemetery earlier in the month. According to police, the desecration nearly destroyed the cemetery. Vandals have desecrated the Hermanstrasse graves on 10 occasions since 1971, including twice during the year. The incident took place after significant electoral gains by the far right party NPD in Neunkirchen (5.6 percent) and neighboring Voelklingen

(9.7 percent) in Saarland's September 5 state elections.

On December 8, it was discovered that billboards advertising the campaign against forgetting the Holocaust in the Steglitz section of Berlin had been defaced with anti Semitic graffiti and slogans in support of a neo Nazi organization.

Frankfurt's Jewish community harshly criticized anti Semitism on the part of some Islamic representatives at the Frankfurt Book Fair, held in October. Jewish representatives cited open displays of anti Semitic texts, such as the book "Terror and Zionist Thinking" (featuring a cover illustration of an individual standing in a pool of blood with a skull with a Star of David).

All branches of Islam were represented in the country, and a large majority of Muslims came from abroad. There remained areas where the law conflicted with Islamic practices or raised religious freedom issues, notably the wearing of headscarves. The integration of Muslims into German society continued to be a source of controversy, which intensified following violent incidents between Muslims and non Muslims in neighboring Holland.

Police reported that in November a Molotov cocktail was thrown at a mosque near Heidelberg, causing an estimated \$13,500 (10,000 Euro) worth of damage. In December, a 17 year old German citizen born in Tajikistan was arrested for the arson attack. Also in November, 25,000 Muslims took part in a massive protest in Cologne against terrorism and militancy and emphasizing their rejection of violence.

Reports of opposition to the construction of mosques in various communities around the country continued. The complainants generally cited increased traffic and noise. A debate continued over whether Muslims would be permitted to use loudspeakers in residential neighborhoods to call the faithful to prayer.

Authorities ran a variety of tolerance education programs, many focusing on anti Semitism and xenophobia. Government agencies cooperated with NGOs in the formulation and administration of these programs. With the active participation of the Muslim community, authorities in Hamburg began work on establishing interreligious education at public schools, labeled the "Hamburg Model."

In April, the Government hosted a conference on anti Semitism sponsored by the Organization for Security and Cooperation (OSCE). The OSCE conference led to the "Berlin Declaration," which called on the 55 nations that attended to implement a set of concrete measures to combat anti Semitism and foster tolerance and respect for all religious groups.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation

The Basic Law provides for these rights, and the Government generally respected them in practice. For ethnic Germans from Eastern Europe and the former Soviet Union, the Basic Law provides both for citizenship immediately upon application and for legal residence without restrictions.

The law specifies that foreign residents must reside in the country for 8 years in order to become naturalized citizens. It grants citizenship to children born to foreign residents as of January 1, 2000, provided that one parent has lived legally in the country for at least 8 years. Children may retain both German citizenship and that of their parents until they reach the age of 18, at which time they must choose the citizenship of one country or the other. If they fail to make this choice by the time they have reached age 23, they will lose their German citizenship. If they give up their foreign citizenship, they must provide evidence of having done so.

The Basic Law prohibits forced exile, and the Government did not employ it.

The country is a party to the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Basic Law and legislation reflect this. The Government provided protection against refoulement (the involuntary return of persons to a country where they feared persecution) and provided refugee status or asylum. Both the Federal Government and state governments cooperated with the office of U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, although immigration matters were primarily a state level responsibility.

In July, the Bundestag and Bundesrat passed a new immigration law providing for stricter security and antiterrorism measures, such as background checks and for easier deportation of suspected terrorists and persons inciting hatred. The bill also established greater protection for refugees by including persecution based on gender and persecution by non state actors as grounds for granting asylum. It facilitated work and residence permits for highly qualified foreigners, foreign students, and investors. The law was scheduled to take effect on January 1, 2005.

The Government continued to observe a European Union (EU) regulation providing that individuals who attempt to enter the country via a "safe country of transit" (a member state of the EU or a country adhering to the Geneva Convention on Refugees) were ineligible for asylum and could be turned back at the border or, if they had managed to enter the country, returned to that "safe country of transit." Individuals whose applications for asylum were rejected had up to 2 weeks to appeal the decision.

Individuals who arrived at an international airport and who were deemed to have come from a "safe country of origin" could be detained at an airport holding facility. In these cases, the Federal Office for the Recognition of Foreign Refugees was required to make a decision on an asylum application within 48 hours or allow the person to enter the country. The applicant could appeal a negative decision to an administrative court within 3 days, and the court was required to rule within 14 days or allow the individual to enter the country. Although stays in the airport facility were limited to a maximum of 19 days, applicants whose claims were rejected, but who could not be deported immediately, allegedly were held at the airport for months, a practice criticized by some refugee assistance groups and human rights advocates.

The number of asylum applicants during the year decreased to 35,607 from 50,563 in 2003, a decline of 29.6 percent. According to the Interior Ministry, 1.5 percent of the processed applicants received asylum. The majority of asylum seekers came from Turkey, Serbia and Montenegro, and Russia. Applicants who entered the country and were denied asylum at their original administrative hearings could challenge the decision in court, and 80 percent of applicants denied asylum did so. Only 3 to 4 percent of such denials were overturned. The rejected applicants were allowed to remain in the country during the course of the appeal, which usually took at least a year and sometimes significantly longer. Applicants received housing and other social service benefits during this time. Refugees from civil wars in the former Yugoslavia have been allowed to work after a 1 year waiting period. Individuals who failed to cooperate during the deportation process or who were deemed likely to flee to avoid deportation could be held in pre deportation detention, with the average detention period lasting 5 to 6 weeks.

The Government also provided temporary protection to individuals who may not qualify as refugees under the 1951 Convention/1967 Protocol. Almost 2 percent of the processed applicants whose asylum applications were rejected, but who would be endangered if they were returned to their home country, received temporary residence permits; however, they were expected to leave when conditions in their home country allowed for their safe return.

In several cases, observers accused local authorities in Hesse of deporting foreigners in contravention of humanitarian practice. Usingen authorities deported the parents of two teenage children who remained in the country. In a separate incident, Usingen police deported three teenagers to Turkey, leaving the rest of the family behind. In February, Border Control officers deported a Tunisian woman (under treatment at a Frankfurt mental clinic) after rejecting her political asylum claim; medical authorities and human rights groups protested that the woman was not well enough to undergo deportation.

Trier prosecutors stated on August 6 that they were unable to verify independently charges made by four Chinese individuals of abuse and intimidation at the hands of Chinese authorities in 2003. The four plaintiffs petitioned to reopen the case.

Metin Kaplan, former head of the "Caliphate State," a Turkish Islamist group, was extradited to Turkey in October to face terrorism related charges after serving a 4 year sentence for calling for the killing of an opponent. Kaplan's extradition was delayed because of uncertainty that a fair trial could take place in Turkey. However, on May 26, the High Administrative Court in Muenster, recognizing changes in Turkish laws, especially the abolition of the death penalty, and assurances that Kaplan would get a fair trial, approved his deportation.

The Government estimated that approximately 59,000 technically deportable Kosovar refugees remained in the country. Of that total, 21,000 were ethnic Kosovo Albanians, and 38,000 were members of ethnic minorities: Serbs, Roma, Bosniaks (Muslim Slavs), Askalii/Egyptians, and Gorani. The Government agreed with the U.N. Interim Mission in Kosovo (UNMIK) to stop all involuntary returns of Roma, Askakali and Serbs while continuing the repatriation of Bosniaks and Gorani.

After the 2002 terrorist incident in a Moscow theater in Russia, the federal Interior Ministry recommended to its state level counterparts that deportations of Chechens be halted temporarily and that previously refused asylum cases of Chechens remaining in the country be re evaluated. However, according to Amnesty International (AI), many asylum applications by Chechens were refused during the year. In February, over 100 refugees from Chechnya demonstrated in Bielefeld against deportation; in April, more than 60 refugees demonstrated in Hamburg against their pending deportation.

Several states attempted to speed up repatriation of uncooperative rejected asylum seekers by opening communal accommodations where foreigners were housed while authorities obtained valid information regarding their identity and citizenship. Some refugee rights and church organizations criticized these centers as inhumane, claiming that the Spartan amenities and the relative lack of freedom of movement constituted psychological pressure on the residents. Authorities countered that the centers' emphasis on counseling and job skill development promoted the residents' willingness to depart voluntarily and enhanced their chances of success in their home countries.

According to mid year statistics, 16,151 Afghans and 12,922 Iraqis were technically deportable; however, authorities extended a moratorium on deportations of Afghan refugees was extended pending the recommendations of a group of experts established in mid year, and the Interior Minister decided in July that conditions would not permit the forced deportation of Iraqi nationals to Iraq.

Section 3

Respect for Political Rights: The Right of Citizens to Change Their Government

The Basic Law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections. Members of the Bundestag are elected every 4 years from a mixture of direct

constituency and party list candidates on the basis of universal suffrage and secret balloting. The Bundesrat is composed of delegations from state governments; there are no direct Bundesrat elections.

In the Bundestag that was last elected in 2002, there were two major parties, the SPD and the Christian Democratic Union/Christian Social Union (CDU/CSU), and three smaller parties, the Free Democrats (FDP), Bündnis 90/the Greens and the Party of Democratic Socialism (PDS), which only holds two seats. The Federal Constitutional Court may outlaw political parties that actively work to undermine the liberal democratic order (see Section 2.b.).

Press allegations of malfeasance by some well known parliamentarians gave rise to a public debate about the impact of secondary jobs and income on politicians' conduct in office. This debate did not appear to damage the public's trust in the integrity of the Parliament.

While there was no federal law establishing public access to government information, four states Berlin, Brandenburg, Schleswig Holstein, and North Rhine Westphalia have freedom of information laws. In these states, denial of access to information was usually attributable to concern for the protection of business confidentiality and a narrow interpretation of the law. Fees for obtaining information were not a significant impediment. All four states with such laws provide for an appeals process.

The Ministry of the Interior issued a directive in July to promote further training and other measures intended to deter corruption.

By law, women are entitled to participate fully in political life, and a growing number were prominent in the Government and the parties. On the Federal Constitutional Court, 4 of the 16 judges were women. Two of the parties represented in the Bundestag were headed by women, and the share of women in the Bundestag increased from 30.9 percent to 32.8 percent. Six members of the 14 member cabinet were women.

Few minorities were represented in the Government. There were two Bundestag deputies of Turkish origin, one of partially Indian origin, and one of the indigenous Sorb minority. On June 13, two candidates of Turkish ancestry were elected to the European Parliament.

Section 4

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of international and domestic human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were very cooperative and responsive to their views.

Section 5

Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits the denial of access to housing, health care, or education on the basis of race, disability, sex, ethnic background, political opinion, or citizenship, and the Government generally enforced these provisions in practice.

The Government had not implemented a 2000 EU Directive establishing a general framework (antidiscrimination act) for equal treatment in employment and occupation. The framework seeks to combat discrimination on the grounds of religion or belief, disability, age and sexual orientation.

Women

The law prohibits violence against women, and the Government has established a number of legal and social structures to combat it. Nevertheless, violence against women was a problem and was thought to be underreported; there were no nationwide statistics, but in 2003, the Federal Ministry of Family, Seniors, Women and Youth estimated that there were approximately 45,000 cases per year of domestic violence against women. In 2003, according to police criminal statistics, 8,766 cases of rape and serious sexual coercion were registered. Societal attitudes toward such violence are strongly negative, and legal and medical recourse were available. During the year, the Government conducted campaigns in schools and through church groups to bring public attention to the existence of such violence and supported numerous projects to combat the problem. There were 324 "women's houses," where victims of violence and their children could seek shelter, counseling, and legal and police protection. The law provides for removing a violent husband or male domestic partner from a shared dwelling.

Prostitution is legal. Lawmakers have approved new rules affording prostitutes more benefits, such as the chance to enter the social security system and to use the courts to obtain payment for their services.

Sexual harassment of women was a recognized problem. The press reported on sexual harassment in the workplace and in public facilities. Unions, churches, government agencies, and NGOs ran a variety of support programs for women who

experienced sexual harassment and sponsored seminars and training to prevent it.

The law provides for equal pay for equal work; women usually were not discriminated against in terms of equal pay for equal work, although they were underrepresented in well-paid managerial positions and represented disproportionately in some lower wage occupations; their average monthly incomes were lower than those of men.

Children

The Government maintained its strong commitment to children's rights and welfare; it amply funded systems of public education and medical care. Public education was provided free of charge through the university level, and education was compulsory through the age of 16; almost all children attended school.

Child abuse was a problem. No statistics were available, but children's advocates from NGOs as well as some politicians considered it a problem, and individual cases received attention in the media. Statistics on victims of violent crimes indicate that in 2003, approximately 95 children were victims of murder or homicide.

The Criminal Code provides for the protection of children against pornography and sexual abuse. For possession of child pornography, the maximum sentence is 1 year in prison; the sentence for distribution is 5 years. The law makes the sexual abuse of children by citizens abroad punishable even if the action is not illegal in the child's own country. In 2003, 15,430 cases of sexual abuse of children were recorded, a decrease of 3.6 percent compared to 2002. In 2003, there were 169 cases of serious sexual abuse of children for the purpose of producing and publishing pornographic material. The number of cases of possession or distribution of child pornography increased from 2,002 in 2002 to 2,868 in 2003 according to an analysis of the issue conducted by the Federal Office of Criminal Investigation; however, the police reported that the increased number of cases reflected a higher number of complaints filed due to better information and increasing awareness of the problem within the population rather than an actual increase in abuse.

A German UNICEF report issued in October 2003 characterized a region in the Czech Republic close to the German border as a "haven for pedophilia." For several years, a liaison group between the two countries has worked to increase the exchange of information and fight pedophilia, but reports indicated that the problems persisted.

Trafficking in girls was a serious problem, which the Government and NGOs combated (see Section 5, Trafficking.)

Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons, primarily women and girls for sexual exploitation, was a problem, which the Government recognized and actively combated.

The criminal law specifically prohibits trafficking in persons and makes the offense punishable by up to 10 years' imprisonment. In December, parliament passed a bill to implement the European Union (EU) Council Framework Decision on Combating Trafficking in Human Beings and the U.N. Protocol. It extends the definition of trafficking to include trafficking for both sex and labor purposes.

The country was both a destination and transit country for trafficked persons. As in previous years, most trafficking victims were women and girls between the ages of 16 and 25 who were forced to work as prostitutes. The Federal Criminal Office (BKA) reported in their annual report on trafficking in persons that the numbers of known and registered victims in 2003 was 1,235, and the percentage of registered victims under age 18 continued to be in the 5 percent range. Of the registered victims, 80 percent came from Eastern Europe and the countries of the former Soviet Union, primarily Russia, Poland, Ukraine, Moldova, Lithuania, Slovakia, Latvia, Bulgaria, and the Czech Republic. Non European victims came mostly from Africa and Asia.

Traffickers used a range of intimidation techniques to ensure the compliance of victims, including threats to "sell" the victim, threats of deportation, misrepresentation of victims' legal rights and status, physical violence, and withholding travel and identification documents. The Government was active in combating trafficking in persons at the federal and state levels. There were no reports of government officials involved in human trafficking.

Trafficking crimes are prosecuted at the state level. According to a report covering 2003, the number of sex trafficking investigations in that year was 431, an increase of 20 percent compared to 2002. The number of trafficking victims increased by 37 percent.

In 2003, in North Rhine—Westphalia, the number of cases of trafficking in persons uncovered by state police authorities increased by almost 20 percent, reaching a record high with 118 new criminal investigations for such crimes. A total of 294 perpetrators were identified, more than two thirds of them from foreign countries. Almost 75 percent of the 241 victims were from Eastern Europe, and 23 were younger than 18, including 3 who were 14 years of age. In Berlin, there were 17 convictions for trafficking in 2003, according to press reports.

In Bavaria, Bavarian and Czech law enforcement officials continued to cooperate closely to combat trafficking at the German

Czech border (see Section 5, Children).

In May 2004, the Berlin District Court convicted the head of a major "call—girl" ring to 4 years' imprisonment for alien smuggling. The ring organized prostitution using women from Eastern Europe. Two accomplices were also convicted; one was sentenced to 3 years in prison, and the other was fined. In September 2003, in Frankfurt, two Germans were convicted of forcing 18 women from the former Soviet Union to work as prostitutes, but were released on probation. Six Eastern Europeans were also charged in this case and convicted on charges ranging from trafficking to aiding in procurement.

Federal ministries worked to coordinate antitrafficking efforts on the international, national, and state levels. Several states have established interagency countertrafficking working groups. The federal and state governments worked actively with NGOs and local women's shelters to identify and assist victims, and together they fund more than 30 counseling centers for victims of trafficking run by NGOs. NGOs continued to criticize uneven and limited funding by the states.

When illegal aliens are identified as trafficking victims, police are required to notify a counseling center and to inform the victims of their rights and options for seeking assistance. The centers provide shelter, counseling, interpreting services, and legal assistance. Victims who agree to serve as witnesses in trafficking cases have the right to join the criminal trial against the trafficker as co plaintiffs, a status that entitles them to an attorney and financial assistance to cover legal expenses. As co plaintiffs, victims are entitled to participate actively in the criminal trial and to extend the criminal trial to a civil compensation proceeding. Victims who are illegal residents receive basic health care for physical illness or pain in accordance with the Benefit Rules for Asylum Seekers. The right to remain in the country is granted in cases of marriage to a national, political asylum, or evidence that deportation would endanger the victim's life. Of the 1,108 registered non German victims in 2003, 35.8 percent were expelled or deported, 17.3 percent returned to their home countries of their own free will, and 23.9 percent were granted a temporary stay or remained under police protection (data was not available in 23 percent of the cases).

The Government covers the basic cost of repatriation of trafficking victims under the Reintegration and Emigration Program for Asylum Seekers in Germany (REAG). The International Organization for Migration administers REAG and has offices in several of the major return countries where the organization facilitates assistance to returning victims.

The Government actively sought to educate potential trafficking victims before they entered the country. Embassies and consulates as well as NGOs distributed brochures that provided information on residency and work permit requirements as well as warnings about trafficking. The Government established a new program in 2003 to fund projects abroad to combat trafficking in women, including information campaigns and awareness training seminars with police officials from source countries.

Persons with Disabilities

The Basic Law and a 2002 law on persons with disabilities specifically prohibit discrimination against persons with disabilities, and there were no reports of discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services. State owned health insurance companies, which cover most citizens, must accept any applicant, but private insurance companies may select their clientele.

The law mandates several special services for persons with disabilities; they are entitled to assistance to avert, eliminate, or alleviate the consequences of their disabilities and to secure employment commensurate with their abilities. The Government offered vocational training and grants for employers who hired persons with disabilities. In addition, various federal and state programs were initiated to promote employment or vocational training of persons with disabilities through financial assistance or subsidies. Persons with severe disabilities could be granted special benefits, such as tax relief, free public transport, special parking facilities, and exemption from radio and television fees.

The Government set guidelines for the attainment of barrier free public buildings and for modifications of streets and pedestrian traffic walks to accommodate persons with disabilities. All 16 states incorporated the federal guidelines into their building codes, and 98 percent of federal public buildings followed the guidelines for a "barrier free environment." Building regulations for private property are decided on a state by state basis. There were no reports of societal discrimination against persons with disabilities.

National/Racial/Ethnic Minorities

The Federal Criminal Police uses a crime definition system for "politically motivated crimes" (PMCs). PMCs are crimes that involve motives related to the victims' ideology, nationality, ethnicity, race, skin color, religion, world view, ancestry, sexual orientation, disability status, appearance, or social status. PMCs are categorized and reported by the Federal OPC in its annual report, according to perpetrator (rightwing extremist, leftwing extremist, foreign extremist) and crime type (propaganda, racist literature or hate speech; property destruction, desecration of Jewish graves; and assaults on persons). In 2003, 10,792 rightwing PMCs were recorded (10,902 in 2002), including 7,551 propaganda crimes (7,294 in 2002), 2,138 "incitement of racial hatred" crimes (2,513 in 2002), 225 property crimes (178 in 2002), 93 criminal threats (115 in 2002), and 26 grave desecrations (30 in 2002). In 2003, 759 of the rightwing extremist PMCs were violent (772 in 2002); the majority of these (430, 56.7 percent; down from 440 in 2002) were perpetrated against foreigners; 35 (4.6 percent) were anti Semitic (up from 28 in 2002), and 211 (27 percent) were against political opponents (up from 207 in 2002).

Harassment of foreigners and racial minorities, including beatings, remained common throughout the country. Media as well as

official reports indicated that several such incidents occurred each week. For example, in July, in Hanover, five men from Turkey and Africa were harassed with racial slurs, struck with an iron bar and chased through the streets. In April, three rightwing extremists beat the owner of a Vietnamese snack stand in Kopenick, Berlin, with a long piece of lumber. The victim was hospitalized. The offenders were sentenced in August: A 16 year old to 2 years probationary youth custody, a 17 year old to 90 days of social work, and a 21 year old to 2 years of youth custody and 90 hours of social work.

In May, a 20 year old foreigner who applied for an apprenticeship as a technician for the city of Kaiserslautern allegedly received a racist response from the city administration's human resources department. Upon opening the returned resume, the man found the comment "No Niggers" on top, using swastikas instead of "g's" and with both his photo and the word "German" in the line nationality crossed out. The man's mother referred the letter to the criminal police, which was still investigating the case at year's end.

The 2003 Federal OPC Report listed 169 rightwing extremist organizations and groups. The total of rightwing extremists was estimated to be 41,500 persons. The authorities estimated that there was a potential of 10,000 violent rightwing extremist sympathizers (mostly skinheads).

Federal and state governments indicated that they remained firmly committed to combating and preventing rightwing violence.

The Government protected and fostered the languages and cultures of national and ethnic minorities traditional to the country (for example, Sorbs, Danes, Roma, Sinti, and Frisians). Although the Government has recognized the Sinti and Roma as an official "national minority" since 1995, critics contended that the Sinti/Romani minority was the only official national minority that did not have unique legal protection, political privileges, or reserved representation in certain public institutions. The federal and state interior ministries indicated that they had been unable to fulfill their international commitments in the case of the Romani language because it was not written, the Romani themselves wished to keep the language restricted to Romani society, and because the Roma and Sinti are widely but thinly distributed around the country in a way that made Romani language schools impractical. Resident foreigners and minority groups continued to voice credible concerns about societal and job related discrimination.

Unemployment affected foreigners disproportionately, although at times this was due in part to inadequate language skills or nontransferable professional certifications of the job seekers (see Section 6.e.). The Federal Government and all states established permanent commissions to assist foreigners in their dealings with government and society.

Section 6 Worker Rights

a. The Right of Association

The Basic Law provides for the right of employees to associate freely, choose representatives, determine programs and policies in their interests, and publicize their views; and workers exercised these rights. The great majority of unionized workers (approximately 23 percent of the labor force) were organized in eight unions largely grouped by industry or service sector. These unions are affiliates of the German Trade Union Federation (DGB), which represents approximately 80 percent of organized workers. Other unions do exist, but represented small numbers of workers.

The law effectively protects workers against antiunion discrimination. Complainants file their cases directly with the labor courts, which are the courts of first instance. Specialized labor court judges render decisions in these cases.

b. The Right to Organize and Bargain Collectively

The labor laws permit unions to conduct their activities without interference, and the Government generally protected this right in practice. The Basic Law protects the unions' right to strike, with some exceptions, and they were free to exercise this right; however, bargaining mechanisms minimized the number of work stoppages (in 2003, approximately 1 day of work was lost per 1,000 workers).

Collective bargaining was widespread due to a well developed system of contract negotiations with no governmental role; mediation was used infrequently. Basic wages and working conditions were negotiated at the industry level, but exceptions negotiated at the company level were fairly common during the year. In addition, some employers in the eastern part of the country refused to join employer associations, or withdrew from them, and then bargained independently with workers. Some firms in the West withdrew at least part of their work force from the jurisdiction of employer associations, complaining of rigidities in the industry wide, multi company, negotiating system. However, they did not refuse to bargain as individual enterprises.

The Works Constitution Act regulates the right of works councils, which represent the interests of workers in relation to their employers. A works council may be elected in any private company employing at least five individuals. The rights of the works council include the right to be informed, consulted, and to participate in company decisions. Members of works councils do not have to be union representatives. Works councils often helped labor and management to settle problems before they become disruptive. "Codetermination" laws give workers in medium sized or large companies significant voting representation on the

companies' supervisory boards. This codetermination in the supervisory board extends to all company activities.

Civil servants and personnel in sensitive or essential positions, such as members of the armed forces, do not have the right to strike. The International Labor Organization (ILO) continued to seek clarifications from the Government on policies and laws governing the labor rights of civil servants and continued to remind the Government that this restriction is not in line with ILO Convention 87 (on freedom of association), and has asked it to change its legislation accordingly. Similarly, teachers in the public service continue to be denied the right to strike. Collective bargaining agreements reached for public service workers who do have this right are usually extended by legislation to those who do not, although such extensions do not always include all of the provisions of those agreements. Workers not allowed to strike also have legal recourse through the courts to protect their rights.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Basic Law and the federal statutes prohibit forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5).

d. Prohibition of Child Labor and Minimum Age for

Employment

The law prohibits the employment of children under the age of 15, with a few exceptions: Those 13 or 14 years of age may do farm work for up to 3 hours per day or may deliver newspapers for up to 2 hours per day; and those 3 to 14 years of age may take part in cultural performances, albeit under stringent curbs on the kinds of activity, number of hours, and time of day. The Federal Economics and Labor Ministry effectively enforced the law through its Factory Inspection Bureau.

e. Acceptable Conditions of Work

There was no legislated or administratively determined minimum wage. Collective bargaining agreements set minimum pay rates and were enforceable by law for an estimated 80 to 90 percent of all wage and salary earners. The remaining 10 to 20 percent of workers were covered by either individual contracts or company level contracts. The wages established by these processes provided a decent standard of living for a worker and family.

Federal law limits the workweek to a maximum of 48 hours. Collective bargaining agreements, which covered 80 percent of the working population directly or indirectly, may provide for longer hours but must average no more than 48 hours per week over time. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

Federal regulations limit the workweek to a maximum of 48 hours, but collective bargaining agreements permit greater flexibility, provided that the 48 hour average is not exceeded over time. Agreements regulating the number of hours of work per week covered 80 percent of the working population directly or indirectly; the number of hours of work per week was regulated by contracts that directly or indirectly affected 80 percent of the working population. In 2002, the average workweek for industrial workers was 39.6 hours nationwide, according to 2002 data from the Organization for Economic and Cooperation in Europe. Provisions for overtime, holiday, and weekend pay varied depending upon the applicable collective bargaining agreement.

An extensive set of laws and regulations on occupational safety and health was enforced by the Economics and Labor Ministry and its counterparts in the states. A comprehensive system of worker insurance carriers enforces safety requirements in the workplace. At the local level, professional and trade associations, which are self governing public corporations with delegates both from the employers and from the unions, oversaw worker safety. The law provides for the right to refuse to perform dangerous or unhealthy work without jeopardy to continued employment.

Foreign workers legally in the country were protected by law and generally worked in conditions equal to that of citizens; however, such workers faced some wage discrimination. For example, foreign teachers in some schools were paid less than their German counterparts. In addition, seasonal workers from Eastern Europe who came to the country on temporary work permits often received wages below those of citizens. Workers from other EU countries at times were employed at the same wages they would receive in their home country, even if the corresponding German worker would receive a higher wage. Foreigners who were employed illegally, particularly in the construction industry in Berlin, were likely to receive substandard wages.